

J. Stearns
CR. 04-10291

MANDATE

United States Court of Appeals For the First Circuit

No. 05-2546

UNITED STATES,

Appellee,

v.

MAURICE DUBOSE,

Defendant, Appellant.

Before

Boudin, Chief Judge,
Torruella and Howard, Circuit Judges.

JUDGMENT

Entered: June 19, 2006

Appellant challenges the constitutionality of his sentence under the Armed Career Criminal Act, 18 U.S.C. § 924(a)(2). The government has moved for summary disposition.

Under Almendarez-Torres v. United States, 523 U.S. 224 (1998), prior convictions do not need to be charged in an indictment, or admitted by the defendant, or found by a jury. See United States v. Gomez-Estrada, 273 F.3d 400, 402 (1st Cir. 2001) (Almendarez-Torres permits sentencing enhancement where defendant pleads guilty to offense without admitting to prior conviction). Whatever the future fate of Almendarez-Torres, unless and until it is overruled by the Supreme Court, it remains binding law in this circuit. See United States v. Mastera, 435 F.3d 56, 59 n.1 (1st Cir. 2006).

Thus, there was no error in the imposition of a 15 year sentence, as required by the Act.

The government's motion for summary disposition is granted.

The judgment is affirmed.

By the Court:

Richard Cushing Donovan, Clerk.

MARGARET CARTER

By: _____ Chief Deputy Clerk.

**Certified and Issued as Mandate
under Fed. R. App. P. 41.**

Richard Cushing Donovan, Clerk

Minda Bally

Deputy Clerk

Date: JUL 07 2006

[cc: Mr. Watkins, Ms. Chaitowitz and Ms. Bower]